

RECEIVED IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
OPELIKA DIVISION

2005 JUN 15 A 10:22

WILLIAM J. WINDHAM and
GWENDOLYN JOYCE WINDHAM
Plaintiffs,

v.

B.W. CAPPS & SONS, INC.

Defendant.

CASE NO. 3:05 CV-472-M

ANSWER

COMES NOW the Defendant in the above styled cause and Answers Plaintiffs' Amended Complaint as follows:

1. Defendant admits to the allegations contained in Paragraph 1 of Plaintiffs' Amended Complaint as to Plaintiff William J. Windham's status as an adult *sui juris* resident and citizen of Midland, Georgia but Defendant denies that Defendant injured or damaged Plaintiff.
2. Defendant admits to the allegations contained in Paragraph 2 of Plaintiffs' Amended Complaint as to Plaintiff Gwendolyn Joyce Windham's status as an adult *sui juris* resident and citizen of Midland, Georgia and as to her being lawfully married to William J. Windham, but Defendant denies that Defendant injured or damaged Plaintiff.
3. Defendant admits to the allegations contained in Paragraphs 3 of Plaintiffs' Amended Complaint.
4. Defendant admits to the allegations contained in Paragraph 4 of Plaintiffs' Amended Complaint.

5. Defendant admits to the allegations contained in Paragraph 5 of Plaintiffs' Amended Complaint.

6. Defendant admits to the allegations contained in Paragraph 6 of Plaintiffs' Amended Complaint.

7. Defendant admits to the allegations contained in Paragraph 7 of Plaintiffs' Amended Complaint.

8. Defendant admits to the allegations contained in Paragraph 8 of Plaintiffs' Amended Complaint.

9. Defendant denies the allegations contained in Paragraph 9 of Plaintiffs' Complaint and demands strict proof thereof.

10. Defendant denies the allegations contained in Paragraph 10 of Plaintiffs' Complaint and demands strict proof thereof.

11. Defendant denies the allegations contained in Paragraph 11 of Plaintiffs' Complaint and demands strict proof thereof.

12. Defendant denies the allegations contained in Paragraph 12 of Plaintiffs' Amended Complaint and demands strict proof thereof.

13. Defendant denies the allegations contained in Paragraph 13 of Plaintiffs' Amended Complaint and demands strict proof thereof.

14. Defendant denies the allegations contained in Paragraph 14 of Plaintiffs' Amended Complaint and demands strict proof thereof.

15. Defendant denies the allegations contained in Paragraph 15 of Plaintiffs' Amended Complaint and demands strict proof thereof.

16. Defendant denies the allegations contained in Paragraph 16 of Plaintiffs' Amended Complaint and demands strict proof thereof.

17. Defendant denies the allegations contained in Paragraph 17 of Plaintiffs' Amended Complaint and demands strict proof thereof.

18. Defendant denies the allegations contained in Paragraph 18 of Plaintiffs' Amended Complaint and demands strict proof thereof.

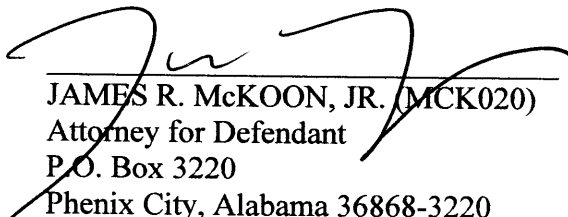
19. Defendant denies the allegations contained in Paragraph 19 of Plaintiffs' Amended Complaint and demands strict proof thereof.

20. Defendant denies each and every remaining allegation of Plaintiffs' Amended Complaint not otherwise specifically controverted or denied herein.

AFFIRMATIVE DEFENSES

1. Defendant pleads the affirmative defense of contributory negligence.
2. Defendant pleads the affirmative defense of intervening and superseding cause.

RESPECTFULLY SUBMITTED on this, the 15th Day of June, 2005.

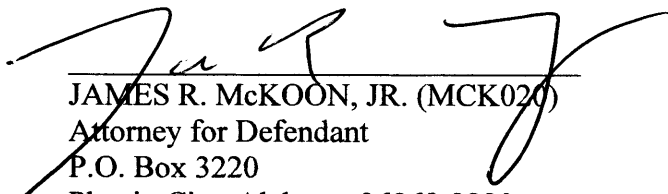

JAMES R. McKOON, JR. (MCK020)
Attorney for Defendant
P.O. Box 3220
Phenix City, Alabama 36868-3220
(334) 297-2300

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing upon the following attorneys of record by placing a true copy of the same in the United States Mail, postage prepaid, and addressed to them as follows:

N. Kirkland Pope
1110 Broad St
PO Box 849
Phenix City, AL 36868

David C. Rayfield
1110 Broad St
PO Box 849
Phenix City, AL 36868



JAMES R. McKOON, JR. (MCK020)
Attorney for Defendant
P.O. Box 3220
Phenix City, Alabama 36868-3220
(334) 297-2300